

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

PJM Interconnection, L.L.C.

Docket No. ER04-608-000

ORDER ACCEPTING MARKET RULES,
SUBJECT TO CONDITION

(Issued May 6, 2004)

1. On March 1, 2004, PJM Interconnection, L.L.C. (PJM) filed proposed modifications to its Open Access Transmission Tariff (PJM Tariff) and related agreements to implement market rules for behind the meter generation. PJM explains that its proposal would allow market participants to net operating behind the meter generation against load at the same electrical location for the purposes of calculating applicable PJM charges.

2. This order accepts PJM's proposed modifications, subject to condition, since its treatment of behind the meter generation is generally consistent with Commission policy and precedent. Our decision benefits customers by allowing PJM to more appropriately allocate the operating costs of its transmission system, while also requiring PJM to file a status report by January 1, 2005, on its continuing examination of whether the netting program can be expanded to include some generators that are not at the same electrical location.

I. Background and Details of the Filing

3. Under PJM's existing market rules, market participants are charged for network service, energy, capacity, ancillary services, and PJM administrative fees based on their total load or scheduled load, as applicable. PJM states that for spot market energy in the day-ahead market, Market Buyers are charged for all load scheduled to be served from the PJM Interchange Energy Market in the day-ahead energy market at the day-ahead prices applicable to each relevant load bus.

4. PJM states that over the past year, its stakeholders have been working to develop new market rules to address behind the meter generation. As explained by PJM, behind the meter generation refers to generating units that are located with load at a single electrical location such that no transmission or distribution facilities are used to deliver energy from the generating unit to the load. PJM states that its Electricity Market Committee (EMC) formed a working group to develop an approach to the rate treatment for behind the meter generation, and ultimately, this working group presented three proposals to the EMC. The proposals ranged from total netting of behind the meter generation to using gross load (*i.e.*, no netting) to determine the charges for energy, capacity, transmission service, ancillary services and administrative fees. After considering the proposals, the PJM Members Committee approved the total netting approach, which forms the basis of the instant filing.

5. In its March 1, 2004 filing, PJM proposes to revise its Open Access Transmission Tariff (PJM Tariff), the Amended and Restated Operating Agreement of PJM (Operating Agreement), the Reliability Assurance Agreement Among Load Serving Entities In The MAAC Control Zone (RAA), and the PJM West Reliability Assurance Agreement Among Load Serving Entities in the PJM West Region (West RAA) to implement market rules for behind the meter generation. PJM states that its proposed market rules are consistent with the Commission's policy of encouraging demand response. PJM requests that its proposed market rules become effective on June 1, 2004.

6. PJM explains that load serving entities that provide service to loads with behind the meter generation will be more likely to use such generation to serve load because they will be able to reduce their costs by netting behind the meter generation in the calculation of PJM charges. Consequently, PJM states that this total netting approach will encourage the use of behind the meter generation during times of scarcity and high prices, thus increasing the opportunity for load to compete in PJM markets.

7. PJM also states that, consistent with Commission policy, the total netting approach reduces the cost to those market participants that rely to a lesser degree on the PJM integrated transmission system to serve load. As a result, PJM states that entities that serve load with behind the meter generation are allocated a fairer share of the costs associated with the operation of the transmission system, including the costs for energy, capacity, ancillary services, and administrative fees.

8. Finally, PJM emphasizes that the intent of its proposal is to limit the netting of behind the meter generation to only entities that directly serve load by generating

resources that are located at the same site or “single electrical location”.¹ PJM states that it expects that its stakeholders will consider whether it is appropriate to expand such netting, under defined circumstances, to permit netting of generation against load in other circumstances, such as municipal and cooperative system loads, where the energy delivery also may rely to a lesser extent on the PJM integrated transmission system.

II. Notice, Interventions, Protests, and Answers

9. Notice of PJM’s filing was published in the Federal Register, 69 Fed. Reg. 11,613 (2004), with comments, protests, and motions to intervene due on or before March 22, 2004. Archer-Daniels-Midland Co.; Consumers Energy Co.; Maryland Office of People’s Counsel; Mirant Parties; NRG Companies; PSEG Companies; and Virginia Municipal Electric Assoc. No. 1 filed timely motions to intervene with no substantive comments.

10. Timely motions to intervene and protests were filed by American Municipal Power-Ohio, Inc. (AMP-Ohio); Borough of Chambersburg, Pennsylvania (Chambersburg); the Cities of Batavia, Geneva, Rochelle, and St. Charles, Illinois (Illinois Cities); and Illinois Municipal Electric Agency (IMEA). Additionally, a timely motion to intervene and comments was filed by the PJM Industrial Consumer Coalition.

11. Late motions to intervene were filed by American Electric Power Service Corp. (AEP); American Forest and Paper Assoc.; Exelon Corp. (Exelon); Maryland Public Service Commission; Pepco Holdings, Inc. (PEPCO); Valero Refining Co. - New Jersey; and Michigan Public Power Agency, Michigan South Central Power Agency, the City of Wyandotte, Michigan and the City of Hamilton, Ohio (jointly).

12. Answers to the protests were filed by PJM; AEP; Exelon; and the Mirant Parties, PEPCO, and PSEG Companies (jointly). Additionally, AMP-Ohio and IMEA filed responses to the answers to the protests.

13. Pursuant to rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2003), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We also find good cause to grant the untimely motions to intervene because they do not prejudice any party or cause undue delay in the proceeding.

¹ Transmittal letter at p. 8, n.14.

14. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2003), prohibits an answer to protests unless otherwise ordered by the decisional authority. We will accept the answers to the extent they have provided information that assisted us in our decision-making process.

III. Protests

15. Several municipal systems protest PJM's behind the meter generation market rules. Although all parties support the proposed total netting of behind the meter generation for market participants, the protestors argue that the total netting approach should be expanded to include municipally-owned distribution systems.

16. The protestors primarily argue that PJM's proposal too narrowly restricts the netting of behind the meter generation by requiring that load be directly served by generating resources located at the same site. IMEA argues that by these terms, a generator cannot be connected to any distribution system in order to qualify for the benefits of the market rules. IMEA states that as a practical matter, this means that the new rules would qualify only some large industrial customers and perhaps some very localized types of distributed generation. Since most municipal generation is connected to local distribution systems, IMEA contends that most of that generation will not qualify under PJM's narrow definition. IMEA therefore argues that PJM's proposed market rules do not recognize the value of municipally-owned behind the meter generation.

17. Chambersburg, a municipal distribution system, states that it takes little comfort that PJM's stakeholders are examining whether to extend the total netting approach to municipal system loads. Until such time as PJM extends netting to all similarly situated customers, Chambersburg argues that to permit netting by any artificially carved out group of customers will remain unduly discriminatory and preferential. Similarly, AMP-Ohio contends that there is no valid reason for this differential treatment. AMP-Ohio states that municipal electric systems that rely on behind the meter generation to serve load has as much right not to be charged for services they do not receive as do industrial generators. In both cases, AMP-Ohio argues that the usage of the property and services by PJM and the transmission owners is reduced by virtue of that behind the meter generation.

18. Illinois Cities, IMEA and AMP-Ohio also claim that the PJM stakeholder process excluded the impact of PJM's integration of newly-annexed regions, and in several cases this will effectively negate municipal behind the meter generation previously qualified under prior control area arrangements. Protestors argue that such treatment could strand previously recovered generation investment, in addition to providing a disincentive for future municipal investments in such generation.

19. Aside from the issue of whether municipal generation should be able to net their behind the meter generation, IMEA contends that other provisions of PJM's proposal are also overly restrictive and should be modified.² First, IMEA states that contrary to PJM's proposal, there is no reason that generating units held on standby or as non-spinning reserves should not also qualify for the benefits provided to behind the meter generation. IMEA believes that generation resources, unless down for maintenance or otherwise not capable for start-up, should be included for purposes of determining capacity adequacy. Second, IMEA opposes PJM's proposal to require qualifying behind the meter generation rated at ten megawatts or greater (or which PJM identifies as requiring metering for operational security reasons) to have both revenue quality metering and telemetry equipment. IMEA states that such metering requirements are unnecessary and the ten megawatt cutoff is inherently arbitrary and capricious in its design and application.

20. Additionally, IMEA argues that it is unduly burdensome to require qualifying behind the meter generation that wishes to participate as a network or capacity resources in the PJM markets, to be interconnected to the PJM transmission system according to special interconnection procedures. IMEA states that there is no reason to require interconnection procedures for generation that has been recognized as supporting, or being capable of supporting, capacity requirements.

IV. PJM's Answer

21. In its response to the protests PJM explains that municipal distribution systems pose additional complexities regarding rules for behind the meter generation. PJM states that municipal systems are often located at multiple locations, or are connected to the transmission systems at multiple points, requiring behind the meter generation to use the PJM transmission system to serve load. PJM states that the purpose of limiting the application of the rules to generation (that is located at the same electrical location as load) is to ensure that only generation that does not rely on the transmission system is netted against load for the purpose of determining the charges for PJM's various services.

22. Further, PJM claims allowing too broad an application of the generation rules could qualify far more generation than was ever anticipated, leading to reliability concerns. PJM asserts that almost any generation potentially could be characterized as load connected to a distribution system, and that classifying such large volumes of generation as behind the meter generation may compromise reserve margin planning.

² IMEA protest at 11-13.

PJM asserts this is because it would not have the right to call upon behind the meter generation in an emergency or capacity shortage.

23. In response to protests that the definition qualifying behind the meter generation for total netting treatment is too narrow to permit municipal system participation, PJM explains that stakeholders are currently considering including some generation associated with distribution systems within the scope of the market rules. PJM requests that the Commission allow the stakeholder process to proceed rather than addressing the substance of the protests in this docket. PJM explains that the proposed market rules were filed in an effort to offer the benefits to as many qualifying entities as soon as possible, particularly during the summer months' peak demand periods.

24. In response to IMEA suggestion that the behind the meter rules should be modified to include units held on standby (or non-spinning reserves), PJM states that since such generation is not a Capacity Resource, PJM cannot require it to run in a capacity shortage. PJM contends that since there is no obligation to make standby or non-spinning generation available to serve load, behind that meter generation that is not running should not be netted against load. However, PJM states that any generator that desires to have its generation counted for all purposes, as available capacity, is free to designate such generation as a Capacity Resource rather than remaining behind the meter generation. By so acting, the generation, whether running or not, has the benefit of being credited as a Capacity Resource for its full output, in exchange for meeting the requirements of a Capacity Resource.

25. Additionally, PJM argues that contrary to IMEA's claims, there is good reason to require behind the meter generation rated at ten megawatts or greater (or which PJM identifies as requiring metering for operational security reasons) to have both revenue quality metering and telemetry equipment. PJM states that such a requirement is necessary to provide PJM operators with real-time information regarding the operating condition and status of generators that have a significant effect on the transmission system. As to the determination of the ten megawatt threshold, PJM states that its Operating Committee has determined that generation units rated at ten megawatts or greater can have a significant effect on the transmission system.

26. Finally, in response to IMEA's argument that interconnection procedures are not necessary for behind the meter generation that desires to be a Network Resource, PJM disagrees. PJM states that such generation must meet PJM's deliverability requirements and must be treated comparably to all other generation that is designated as a Capacity Resource. PJM states that applying standard interconnection procedures to such generation ensures the Network Resource will be able to support all load in the region, not just its own. Notwithstanding, PJM notes that behind the meter generation need not

comply with the interconnection procedures if it remains behind the meter instead of becoming a Network Resource or Capacity Resource.

V. Discussion

27. The Commission finds that consistent with our policy of encouraging demand response programs, PJM's proposed market rules are just and reasonable and will encourage qualifying entities with behind the meter generation to reduce their use of the PJM transmission system. Accordingly, the Commission will accept PJM's proposed market rules, to become effective June 1, 2004, subject to condition, as discussed below.

28. PJM's total netting approach is consistent with our decision in Occidental Chemical Corp. v. PJM Interconnection, L.L.C.³ where the Commission explained the need to encourage load response during periods when generation or transmission are in short supply and prices are rising. In that case, the Commission specifically found that "charges for the use of PJM's transmission system should be allocated to network customers based on a network customer's actual use of PJM's system, consistent with the principle of cost causation."⁴ Additionally, qualifying customers that use behind the meter generation may also participate in PJM's other demand response programs. As such, this total netting approach should provide additional incentives for demand response.

29. The Commission recognizes that PJM's stakeholders engaged in a lengthy process that preceded PJM's submission of their behind the meter generation program. While some issues, notably the issue of expanding the program to include generation associated with distribution systems have yet to be resolved, all parties in this proceeding support the use of behind the meter generation to net such generation against load. As proposed, PJM's market rules will provide a benefit to qualifying behind the meter generation that contributes to network load reductions by allocating a fairer share of transmission system and other operating costs.

30. The protestors argue that PJM's proposal is too restrictive in limiting the field of market participants that may net behind the meter generation, in particular municipal generators. However, the protestors have not provided sufficient evidence to show that municipal generation is similarly-situated to directly connected load, and therefore, must

³ 102 FERC ¶ 61,275 (2003).

⁴ Id. at P 14.

be allowed to participate in PJM's netting program. For instance, unlike industrial generators, the municipal generators have failed to show that their generation does not make use of the transmission system, such that they should be relieved of paying the applicable charges.

31. Nonetheless, the Commission is encouraged that PJM and its stakeholders are still actively considering whether the netting program could be expanded to include some generation associated with a distribution system. Therefore, we direct PJM to file by January 1, 2005, a status report informing the Commission of the results of its stakeholder process.

32. In response to the additional concerns raised by IMEA, the Commission finds that PJM has provided reasoned responses to address such concerns. Specifically, the Commission finds that behind the meter generation on standby (or non-spinning reserves) should not be netted against load, since PJM has no ability to require such generation to run in a capacity shortage. Moreover, the Commission disagrees with IMEA's argument that the metering requirements are overly restrictive. As PJM explained in its answer, its Operating Committee has determined that generating units that are rated at ten megawatts or greater can significantly affect the operating condition of the transmission system, and that such units must be included in the PJM network model. Accordingly, the Commission finds that to ensure a reliable transmission system, PJM may reasonably require that such behind the meter generation have metering equipment in place to provide PJM operators with real-time information regarding the operating condition and status of generators.

33. Finally, the Commission finds that PJM's proposed interconnection procedures for behind the metering generation that desires to qualify as a Network Resource are reasonable. Contrary to IMEA's belief that the proposed interconnection procedures are not necessary, the Commission finds that if the behind the meter generation wants to qualify as a Network Resource, it must meet PJM's deliverability requirements. The Commission agrees with PJM in finding that standardized interconnection procedures will ensure that the Network Resource will be able to reliably support all load in the region.

The Commission orders:

(A) PJM's proposed modifications to its Tariff, Operating Agreement, RAA, and West RAA, are conditionally accepted to become effective June 1, 2004, as discussed in the body of this order.

(B) PJM is directed to file a status report by January 1, 2005, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.